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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: April 4, 2011

Agenda Item No. 9(A)(1)

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

Resolution No. R-247-11

From: Carlos Alvarez
Mayor

George M. Burgess
County Manager

Subject: Waiver of Formal Bid Procedures Allowing Payment to Entertainers to Perform and/or Exhibit at South-Miami Dade Cultural Arts Center

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RECOMMENDATION

It is recommended that the Board approve a waiver of the formal bid procedures of section 5.03 (D) of the Home Rule Charter and Administrative Order 3-38 and bid protest procedures, to allow the Department of Cultural Affairs to contract and pay professional performers, visual artists and associated expenses for engagements at the South Miami-Dade Cultural Arts Center, in an amount not to exceed $1,250,000 in total, nor $125,000 per performance or exhibition fee. This waiver will remain constant for two years or until the aggregate recommended amount is expended, whichever occurs first.

SCOPE

The programs and artists presented at the South Miami-Dade Cultural Arts Center have the potential to serve audiences county-wide and will have a direct impact on the residents of and visitors to South Miami-Dade County.

Fiscal Impact/Funding Source

Funding will come from budgeted revenues for the operations of the South Miami-Dade Cultural Arts Center, Expenditure: CUESMDCC, Project: 127005 and will not exceed $1,250,000.

Delegation of Authority

Authority for executing, amending and exercising all provisions, including cancellation provisions contained in the contracts for professional performers, visual artists and associated expenses for engagements at the South Miami-Dade Cultural Arts Center, is delegated to the Department Director.

Track Record/Monitor

The negotiated agreements will require written authorization from Michael Spring, Director of the Department of Cultural Affairs. This waiver will be administered and monitored by the County Department of Cultural Affairs and the Department's Managing Director for the South Miami-Dade Cultural Art Center.

BACKGROUND

This recommendation to waive formal bid procedures to contract and pay entertainers is based on a successful model used for more than twenty years by the Park and Recreation Department. Beginning in 1988, the Board has authorized a series of Resolutions (R-1055-88, July 19, 1988; R-1078-98, September 15, 1998; Resolution No. R-1252-01, October 6, 2001; Resolution No. R-1161-03, October 9, 2003; No. R-1470-04, December 14, 2004; Resolution No. R-1002-06, September 12, 2006 and R-914-8, September 2, 2008) that authorized multi-year waivers of formal bid procedures for payments to performers engaged to perform at Park and Recreation Department facilities (e.g., Miami-Dade County Auditorium, the Joseph Caleb Auditorium, the African Heritage Cultural Arts Center, Metrozoo, etc.). These actions have facilitated the cultural programming at these Park and Recreation facilities for the last two decades.

The Department of Cultural Affairs is anticipating that the inaugural performances at the new, South Miami-Dade Cultural Arts Center facility will occur in spring of 2011. The South Miami-Dade Cultural Arts Center is a key component of the Moss Plan and designed to be a catalyst for the development of the "Downtown" Cutler Bay area. The Center is comprised of two buildings, the Theater Building and the Activities Building, located on 6.39 acres of land along 211 Street, adjacent to the South Miami-Dade Government Center in Cutler Bay. The 71,500 square foot Theater Building houses an over 70-foot high lobby space, a 966-seat theater on three levels, an orchestra pit, stage area with fly loft space, a multi-purpose room, ample restroom amenities, dressing rooms, administrative offices, and dramatic public artwork by Miami artist Robert Chambers. The 7,500 square foot Activities Building provides rehearsal, small-scale performance, and classroom spaces across a promenade that joins the two buildings. To the south of the two buildings, a lawn where outdoor concerts, festivals, and art fairs will be hosted slopes gently towards the Black Creek Canal. The Center's design is a collaboration of local, world-renowned architectural firm Arquitectonica International Inc., along with theater planning consultants Fisher Dachs Associates, and sound, communications, and acoustical designers Artec Consultants, Inc., resulting in a state of the art facility long-awaited by the South Miami-Dade community. The Department of Cultural Affairs has worked with AMS Planning and Research, a national arts management firm with expertise in the operations of performing arts facilities, to develop the budgets, operational policies and procedures and programming and marketing plans for the South Miami-Dade Cultural Arts Center. Based on this work, the Department of Cultural Affairs has confirmed that one important strategy to ensure the success of the new South Miami-Dade Cultural Arts Center is for the facility to pro-actively program performances and exhibitions that will introduce this new venue to audiences, artists and performing arts groups.

On April 7, 2009 Resolution No. R-371-09 was approved by the Board of County Commissioners granting a waiver to the Department of Cultural Affairs of the formal bid procedures for contracting professional entertainers and artists and associated expenses at the South Miami-Dade Cultural Arts Center. As a result of the impending expiration of this resolution, a renewal of the waiver of the formal bid procedures for professional performers, visual artists and associated expenses for engagements at the South Miami-Dade Cultural Arts Center is being requested. In addition, based on more direct experience with current costs for selected performers and artists, it is recommended that the limit on fees be raised from $60,000 to up to $125,000 per performance or exhibition fee, with a $1,250,000 cap and a two-year time limit or until the aggregate recommended amount is expended, whichever occurs first. Similar to the benefits afforded to Park and Recreation Department's

cultural facilities, the waiver of formal bid procedures for professional performers, visual artists and associated expenses is necessary to facilitate the planning and programming of arts and cultural activities and services at the new South Miami-Dade County Cultural Arts Center. The amount of $1,250,000 was calculated based on the projected annual programming budget of the South Miami-Dade County Cultural Arts Center and reflects projected programming expenses both for the opening events related to the inauguration of the facility and the first two years of operations. The $125,000 fee limit is based on real contractual negotiations with artists and institutions that can provide the appropriate artist and activities for the South Miami-Dade Cultural Arts Center. It should be noted that as an example, this fee can be used to cover an extended, multi-week booking of an activity at the Center. Contracting for professional performers, visual artists and associated expenses for the South Miami-Dade County Cultural Arts Center is contingent upon the annual authorization of the budget for the Department of Cultural Affairs.

While advance planning for performers and programs is now a priority for the new South Miami-Dade Cultural Arts Center, it also is important to be able to react quickly to programming opportunities once the Center opens. South Florida is a popular corridor for performers and visual artists from all over the world, and the opportunity to book exceptional talent on short notice often arises, usually at significantly reduced costs and contractual requirements and riders. When a booking opportunity occurs, virtually all artists require an immediate deposit to retain a date. In addition, most artists have contractual conditions that may include unique set-ups and other special requirements that must be met by the producer/presenter. These special conditions may include a specific type of microphone, venue accommodations, security arrangements, special assistance and certain performance or exhibition and skills requirements from sound technicians, curators, stagehands, lighting and sound equipment, and other miscellaneous purchases or rentals.

The channels for normal County purchasing and bid procedures cannot accommodate these special requirements which usually require a very quick turn around. Board approval of each agreement or arrangement is not feasible, given the short notice of availability, the uniqueness of the artistry and the negotiations of the contracting requirements. In keeping with County procurement policies, staff will continue to make every effort to use existing qualified vendors and/or obtain four quotes whenever possible as it relates to equipment, sound and lighting and other expenses ancillary to the engagement related to the presentation of artists.

This recommendation for the renewal of the waiver of the formal bid procedures for professional performers, visual artists and associated expenses for the South Miami-Dade Cultural Arts Center is scheduled to be reviewed by the Cultural Affairs Council on February 23, 2011

Alex Muñoz
Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 4, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 9(A)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

✓ **Applicable legislation requires more than a majority vote (i.e., 2/3's ✓, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 9(A)(1)
4-4-11

RESOLUTION NO. R-247-11

RESOLUTION WAIVING FORMAL BID PROCEDURES AND THE REQUIREMENTS OF ADMINISTRATIVE ORDER 3-38, BY A TWO THIRDS VOTE TO ALLOW THE DEPARTMENT OF CULTURAL AFFAIRS TO SCHEDULE AND PAY PROFESSIONAL ENTERTAINERS AND ARTISTS AND ASSOCIATED EXPENSES FOR ENGAGEMENTS IN PREPARATION FOR THE OPENING AND FOR PROGRAMMING AT THE SOUTH MIAMI-DADE CULTURAL ARTS CENTER; IN AN AGGREGATE AMOUNT NOT TO EXCEED $1,250,000 AND NOT TO EXCEED $125,000 PER PERFORMANCE OR EXHIBITION; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SUCH AGREEMENT AND TO EXERCISE THE CANCELLATION PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds it in the best interest of the County to waive formal competitive bid procedures pursuant to section 5.03(D) of the Miami-Dade County Home Rule Charter and the requirements of Administrative Order 3-38 by a two-thirds vote in order to allow the Department of Cultural Affairs to contract with professional entertainers, artists and various associated expenses for engagements in preparation for the opening and for programming of the South Miami- Dade Cultural Arts Center in an aggregate amount not to exceed $1,250,000 or $125,000 per performance or exhibition, and authorizes the County Mayor or County Mayor's designee, to execute contracts therefore, following approval of the County Attorney's Office, and to exercise cancellation provisions contained therein.

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The foregoing resolution was offered by Commissioner **Audrey Edmonson**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			aye
Audrey M. Edmonson, Vice Chairwoman			aye
Bruno A. Barreiro	aye	Lynda Bell	aye
Jose "Pepe" Diaz	aye	Carlos A. Gimenez	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of April, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. DBM

Deborah Bovarnick Mastin